

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority hereby gives notice of the adoption of an amendment to Chapter 96 to Title 14, which contain the rules governing the barring policy in public housing properties. Final action to adopt these rules was taken at the Board of Commissioners regular meeting on April 13, 2005.

Notice of Proposed Rulemaking was published on January 14, 2005 (14 DCMR ADC § 9600). Minor, but not substantial, changes were made to the text of the proposed rules as published under the notice of proposed rulemaking. These final rules will be effective upon publication of this notice in the D.C. Register.

Chapter 96, is amended and restated by adding the following text as the new Section 9600:

9600 BARRING POLICY

- 9600.1 The DCHA's mission is to provide properties that are safe, decent, and sanitary dwelling units in which families may live. In addition, DCHA has the right to refuse entrance or access to any of its properties to any unauthorized person as defined in § 9600.2.
- 9600.2 No person may enter upon a DCHA property unless that person is authorized to be on the property. The only persons authorized to be on a DCHA property are:
- (a) Residents of the property;
 - (b) Members of the resident's household;
 - (c) A resident's guests, except as provided in § 9600.5;
 - (d) Persons authorized under § 9600.3;
 - (e) Organizations with a license to use a portion of a property for specified purposes, and including the invitees of a licensee;
 - (f) Persons employed by or doing business with DCHA at the property; and
 - (g) Persons engaged in the legal or law enforcement community who are engaging in activities directly related to civil or criminal matters, such as process servers, investigators, attorneys or other individuals legitimately on a property for such purpose.

- (h) Persons authorized after consultation with the Resident Council as provided under section 9600.3 below.

9600.3 Any person, not otherwise authorized under § 9600.2, seeking access to a DCHA property for legitimate business or social purposes shall be admitted as follows:

- (a) Any such person or organization shall submit a written request to the property management office of the respective DCHA development to which the person is seeking access.
- (b) DCHA, in consultation with the resident council of the respective development, shall review the request and respond to the request in writing within ten (10) business days of the request stating approval or disapproval of the request. If DCHA has not responded within ten (10) business days, the request is deemed approved.

9600.4 Any person not identified in § 9600.2 as an authorized person may be subject to the issuance of a Bar Notice for the period of time specified in the Bar Notice, not to exceed five years.

9600.5 Resident's guests may be subject to the issuance of a Temporary or Extended Bar Notice barring them from a specified development pursuant to the following:

- (a) Any resident's guest who engages in any activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents or DCHA employees or violates DCHA policy is an unauthorized person and may be barred for a Temporary or extended period of time as specified in sub-sections (b) and (c) below.
- (b) A Temporary Bar Notice shall remain in effect for the first infraction for sixty (60) days, a second infraction for six (6) months, and third infraction for one (1) year for the following infractions:
 - (1) Entering DCHA property without presenting identification or properly signing the visitor log, unless identified as a guest by the resident they are visiting;
 - (2) Being on DCHA property at a location or unit not specified on the guest pass or visitor log, unless the person is on the

most direct route to or from such location, or accompanied personally by the resident being visited;

- (3) Residing as an unauthorized occupant in a DCHA dwelling unit; or
 - (4) Engaging in excessively loud or disruptive conduct or otherwise disturbing the peace of DCHA residents or DCHA employees.
- (c) An Extended Bar Notice shall remain in effect for five (5) years for the following:
- (1) Persons issued more than four (4) bar notices for activities identified in § 9600.5(b);
 - (2) Engaging in conduct that is dangerous to the health or safety of residents or DCHA employees;
 - (3) Engaging in activities involving illegal drugs, violence, weapons, theft, assault, and serious damage to property; and
 - (4) Persons evicted from DCHA property on the basis of such person's criminal or illegal activity.
- (d) Nothing contained in this Chapter shall prevent a guest of a DCHA resident from access or entry to the resident's dwelling unit for legitimate business or social purposes except as they may have been barred as provided in § 9600.5(b) or (c).
- (e) For purposes of this sub-section a resident's guest is any individual who is an invitee of, and can identify by name and unit number, an individual who is a member of a household under lease with DCHA, and such individual is available and willing to accept the guest and responsibility for the actions of the guest.

9600.6

Bar Notices shall be applicable at the following:

- (a) Bar Notices issued to unauthorized persons under § 9600.4 or Temporary or Extended Bar Notices issued to guests under § 9600.5 may only be issued to bar such individuals from a particular DCHA-development.
- (b) Bar Notices may not be issued to bar persons from public streets or sidewalks, or from private property adjoining DCHA property.

9600.7 Bar Notices shall be served to persons pursuant to the following:

- (a) Personal delivery or attempted delivery in writing of Bar Notices shall be made to each person barred from a DCHA property.
- (b) The Bar Notice shall identify the basis for the issuance of the Bar Notice and the time period for which the person is barred from DCHA property. The Bar Notice shall reflect the date, method and manner of delivery upon the barred person. The Bar Notice does not have to be delivered to the person on DCHA property.
- (c) A copy of the Bar Notice issued to a guest will be provided to the resident, if the guest has identified the unit number and name of the resident. A resident may file a grievance pursuant to the provisions of Chapter 89 of this Chapter if a guest of the resident has been barred.

9600.8 Bar Notices shall only be issued by the following persons:

- (a) Members of the DCHA Office of Public Safety including sworn officers and special police officers;
- (b) Members of the Metropolitan Police Department;
- (c) Members of cooperative law enforcement task forces as may be authorized by the Chief of DCHA Office of Public Safety; and
- (d) Private security providers contracted by DCHA or DCHA's agent.

9600.9 Bar Notices and Barring Policy information shall be made available as follows:

- (a) The DCHA Office of Public Safety shall keep copies of all Bar Notices and records of the expiration dates thereof;
- (b) A copy of the Barring Policy, as set forth in this Chapter, shall be provided to each applicant upon signing a lease with DCHA;
- (c) A copy of the Barring Policy, as set forth in this Chapter, shall be provided to the Resident Council for the development; and
- (d) A copy of the Barring Policy, as set forth in this Chapter, shall be available at the management office for each development.

9600.10 The issuance of a Bar Notice requires the following:

- (a) The barred person must immediately leave the DCHA property from which the person was barred and not return to that DCHA development for the period the Bar Notice remains in effect.
- (b) Should the barred person fail to leave the DCHA property after the issuance of the Bar Notice, or later returns to the DCHA property noted on the Bar Notice at any time while the Bar Notice is in effect, the person may be arrested for "unlawful entry" pursuant to D.C. Code § 22-3302 (2001 ed.) as amended.

9600.11 Any barred person may submit a written request for a temporary lift of a Extended or Temporary Bar Notice to the Chief of the DCHA Office of Public Safety.

- (a) The written request shall state the specific location and time period during which the barred person is seeking access, and the reason for the request of the temporary lift, including any documentation of a request for a reasonable accommodation.
- (b) A temporary lift shall be for a period of not more than eight hours during one calendar day.
- (c) A barred person may only be granted two (2) temporary lifts during any particular year of the imposition of a Bar Notice.
- (d) Any barred person who commits a subsequent infraction on DCHA property during a period of a temporary lift shall be prohibited from requesting additional requests for temporary lifts during the remaining term of the Bar Notice.
- (e) The Chief of DCHA Office of Public Safety will review the request of temporary lift and respond in writing within ten (10) days of the submission.